

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

RAFAELA DAVILA,

Plaintiff,

v.

CIVIL ACTION NO. 2:16-cv-00935

ETHICON, INC., et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is Defendant C. R. Bard, Inc.'s Motion to Dismiss for Insufficient Service of Process, filed August 27, 2019. [ECF No. 32]. Defendant C. R. Bard, Inc. ("Bard") seeks an order dismissing plaintiff's case as to Bard with prejudice for failure to serve. Plaintiff has not responded to the Motion.

Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, plaintiff's claims against Bard must be dismissed without prejudice for failure to serve Bard within 90 days after the complaint was filed. The court **ORDERS** that Bard's Motion [ECF No. 32] is **GRANTED** to the extent it seeks dismissal and **DENIED** insofar as Bard seeks dismissal of the claim against it with prejudice. Another defendant remains, so the case should remain open.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 13, 2019


JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE